

Message Text

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ACTION SS-30

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TO SECSTATE WASHDC IMMEDIATE 907

C O N F I D E N T I A L SECTION 1 OF 2 USUN 4571

EXDIS

FOR SECSTATE, ACTING SECRETARY AND D/LOS MOORE FROM JOHN
STEVENSON

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E.O. 11652: GDS

TAGS: PFOR PBOR UN MX

SUBJ: LAW OF THE SEA

1. ON MONDAY, NOVEMBER 5, AMBASSADOR JORGE CASTANEDA, MEXICO'S PRINCIPAL REPRESENTATIVE IN THE LAW OF THE SEA NEGOTIATIONS, ASKED FOR A CONFERENCE WITH AMB. STEVENSON STATING HE WAS ACTING ON THE INSTRUCTIONS OF HIS FOREIGN MINISTER. CONCURRENTLY, STEVENSON WAS ADVISED BY THE DEPARTMENT THAT FOREIGN MINISTER RABASA HAD AGREED WITH THE SECRETARY THAT CASTANEDA SHOULD MEET WITH STEVENSON.

2. CASTANEDA OPENED THE DISCUSSION BY STATING THAT HIS FOREIGN MINISTER WAS VERY APPRECIATIVE OF THE SECRETARY'S UNDERSTANDING AND ASSISTANCE IN BRINGING TO A SUCCESSFUL CONCLUSION THE SALINITY ISSUE WHICH HAD TROUBLED RELATIONS BETWEEN MEXICO AND THE UNITED STATES FOR SO LONG AND WAS HOPEFUL THAT THE SECRETARY WOULD TAKE AN INTEREST IN LAW OF THE SEA POLICY IN WHICH MEXICO AND THE UNITED STATES SHARED MANY COMMON INTERESTS. THE FOREIGN MINISTER HAD BEEN GIVING CONSIDERABLE ATTENTION TO MEXICO'S MARITIME JURISDICTION AND WAS CONVINCED THAT THE PRESENT MEXICAN GOVERNMENT BEFORE THE END OF ITS TERM SHOULD ENACT AND IMPLEMENT
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LEGISLATION PROVIDING FOR THE ESTABLISHMENT OF EFFECTIVE NATIONAL JURISDICTION OVER FISHERIES AND THE MINERAL RESOURCES OF THE SEABED BEYOND A 12 MILE TERRITORIAL SEA OUT TO 200 MILES OR ALTERNATIVELY (IN

THE CASE OF THE SEABED) TO THE EDGE OF THE CONTINENTAL MARGIN. THE FOREIGN MINISTER HAS INSTRUCTED CASTANEDA TO PREPARE THE DETAILS OF SUCH A LEGISLATIVE PROPOSAL WITH A VIEW TO ITS ADOPTION BY THE MEXICAN LEGISLATURE BEFORE IT ADJOURNS AT THE END OF THIS YEAR OR DURING ITS 1974 SESSION AT THE LATEST.

3. CASTANEDA IS THINKING IN TERMS OF NATIONAL LEGISLATION REFLECTING THE SUBSTANCE OF THE TREATY ARTICLES ON THE PATRIMONIAL SEA WHICH COLOMBIA, MEXICO AND VENEZUELA INTRODUCED IN THE SEABED COMMITTEE EARLY THIS YEAR. DOCUMENT A/AC.138/SCII/L.21. HE INDICATED THAT AS A PRACTICAL MATTER MEXICO DID NOT HAVE VERY MUCH CONTINENTAL MARGIN BEYOND THE 200 MILE TERRITORIAL SEA.

4. CASTANEDA STATED THAT IN VIEW OF THE LEGISLATIVE ACTION IN THIS AREA BY SO MANY OTHER LATIN AMERICAN COUNTRIES THE FOREIGN MINISTER FELT THAT HE WOULD BE NEGLIGENT OF MEXICO'S NATIONAL INTEREST IF HE DID NOT ACT. HE SUGGESTED SOMEWHAT SHEEPISHLY THAT THE ENACTMENT OF NATIONAL LEGISLATION REFLECTING THE MODERATE PROPOSAL OF MEXICO, COLOMBIA AND VENEZUELA MIGHT FACILITATE THE LOS NEGOTIATIONS, WHEN CONTRASTED WITH THE MORE EXTREME BRAZILIAN 200 MILE TERRITORIAL SEA LEGISLATION.

5. STEVENSON INDICATED TO CASTANEDA HIS APPRECIATION THAT THE MEXICAN GOVERNMENT WAS DISCUSSING THIS MATTER IN ADVANCE OF ACTING IN KEEPING WITH THE CLOSE COOPERATION IN LAW OF THE SEA MATTERS WHICH THE TWO COUNTRIES AND THEIR REPRESENTATIVES HAD ABSERVED. STEVENSON INDICATED THE FOLLOWING CONCERNS WITH THE PROPOSED LEGISLATION: FIRST, THE FACT THAT MEXICO WOULD BE PROCEEDING UNILATERALLY IN ADVANCE OF THE LOS CONFERENCE COULD INFLUENCE THE ACTION OF ANUMBER OF OTHER COUNTRIES WHICH HAVE BEEN HOLDING UP UNILATERAL ACTION PENDING THE RESULTS OF THE CONFERENCE. THIS WILL BE PARTICULARLY CONFIDENTIAL

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SERIOUS IN VIEW OF THE MODERATE LEADERSHIP POSITION WHICH MEXICO HAD TAKEN IN PROPOSING THE PATRIMONIAL SEA COMPROMISE BETWEEN THE 12 MILE AND 200 MILE TERRITORIAL SEA APPROACHES. IT MAY ALSO BE TAKEN AS AN INDICATION OF MEXICAN LACK OF CONFIDENCE IN THE TIMELY SUCCESS OF THE CONFERENCE. SECONDLY, IT WOULD MAKE IT INCREASINGLY DIFFICULT FOR THE U.S. EXECUTIVE BRANCH TO CONTINUE TO OPPOSE PROPOSED U.S. LEGISLATION ESTABISHING A 200 MILE FISHING ZONE AS WELL AS LEGISLATION LICENSING DEEP SEABED MINING. THIRDLY, BY ENACTING INTO LEGISLATION THE PRECISE PROVISIONS OF THE MEXICAN LOS TREATY PROPOSAL, MEXICO WOULD MAKE IT MORE DIFFICULT TO ACCEPT IN THE NEGOTIATIONS ADDITIONAL

LIMITATIONS ON COASTAL STATE JURISDICTION TO ACCOMMODATE
THE UNITED STATES AND OTHER COUNTRIES' VIEWS.

6. CASTANEDA SAID THAT SOME FLEXIBLE GENERAL PROVISIONS COULD BE
INCLUDED IN THE LEGISLATION TO PERMIT TAKING THESE
OTHER INTERESTS INTO ACCOUNT. HE ALSO SAID THAT
UNILATERAL ACTION BY THE UNITED STATES TO LICENSE DEEP
SEABED MINING WAS SO CLEARLY CONTRARY TO THE VIEWS OF
THE OVERWHELMING MAJORITY OF COUNTRIES THAT IT WOULD BE
LOOKED AT IN A DIFFERENT LIGHT THAN MODERATE MEXICAN
ACTION TO ESTABLISH THE SORT OF COASTAL STATE ECONOMIC

JURISDICTION THAT WOULD HAVE TO FORM THE BASIS FOR GENERAL
AGREEMENT AT THE CONFERENCE.

7. STEVENSON SAID THAT FROM A U.S. PERSPECTIVE THE MEXICAN
ACTION EVEN THOUGH ALONG THE LINES OF WHAT MIGHT BE AGREED TO
AS PART OF AN OVERALL SETTLEMENT IS CONTRARY TO EXISTING
INT'L LAW WHEREAS EXPLOITATION OF THE DEEP SEABED WAS NOT.
UNILATERAL EXTENSION OF MARITIME JURISDICTION BY OTHER COUNTRIES,
PARTICULARLY THE RESPONSIBLE LEADERSHIP COUNTRIES, WOULD MAKE
IT VERY DIFFICULT TO RESIST UNILATERAL U.S. LEGISLATIVE ACTION
MERELY IN THE COASTAL AREA BUT IN THE DEEP SEABED AS WELL.

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C O N F I D E N T I A L SECTION 2 OF 2 USUN 4571

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SUBJ: LAW OF THE SEA

8. IN RESPONSE TO STEVENSON'S INQUIRY AS TO WHETHER
COLOMBIA OR VENEZUELA WERE CONTEMPLATING SIMILAR ACTION,
CASTANEDA SAID HE DID NOT KNOW OF ANY SUCH PROPOSED
ACTION. HE DID NOT DISPUTE THE POINTS RAISED BY
STEVENSON BUT INDICATED THAT HE WAS UNDER FIRM INSTRUCTIONS
TO PREPARE A DETAILED PROPOSAL AND WOULD DISCUSS IT
FURTHER WITH STEVENSON WHEN HE RETURNED FROM GENEVA
DEC 3 FOR THE ORGANIZATIONAL MEETING OF THE LOS
CONFERENCE.

9. STEVENSON URGED THAT ACTION NOT BE TAKEN UNTIL WE HAVE THE OPPORTUNITY TO DISCUSS THE MATTER FURTHER.

10. COMMENT: IN VIEW OF THE APPARENT DETERMINATION OF THE FOREIGN MINISTER TO GO FORWARD WITH THIS LEGISLATION IT MAY WELL BE DESIRABLE FOR THE SECRETARY TO INTERVENE PERSONALLY WITH RABASA. ONE POSSIBLE WAY OF DEFLECTING THIS PROPOSAL WOULD BE TO SUGGEST THAT AMBASSADORS CASTANEDA AND STEVENSON REPRESENTING ON THE ONE HAND THE MODERATE DEVELOPING COASTAL COUNTRIES AND ON THE OTHER THE MODERATE MARITIME DEVELOPED COUNTRIES ATTEMPT A NEW DRAFT OF THE MEXICAN PATRIMONIAL SEA PROPOSAL TAKING INTO ACCOUNT THE VIEWS OF THE UNITED STATES AND OTHERS AS A NEGOTIATING DOCUMENT LOOKING TOWARD DEVELOPING A POSSIBLE CONFERENCE CONSENSUS AGREEMENT ON THIS CRITICAL ISSUE. IT MAY
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ALSO BE DESIRABLE TO URGE MEXICO TO CONSULT WITH VENEZUELA BEFORE TAKING THIS ACTION SINCE VENEZUELA AS THE PRINCIPAL ORGANIZER OF THE SANTO DOMINGO CONFERENCE AT WHICH THE PATRIMONIAL SEA CONCEPT WAS ADOPTED AND AS THE HOST COUNTRY HAS A VERY STRONG COMMITMENT TO THE EARLY SUCCESS OF THE CONFERENCE.
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